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OFFICE OF PETITIONS

In re Application of :
Barkley et al. :
Application No. 10/736,183 : ON PETITION
Filed: 15 December, 2003 :
Attorney's Docket No. 2003-0504.02 :

This is a decision on the petition filed on 18 August, 2004, requesting that the above-identified application be accorded a filing date of 15 December, 2003, with Figures 1 and 2 described in the specification as a part of the original disclosure.

The petition is granted.

On 15 December, 2003, the application was filed.

Accordingly, on 21 June, 2004, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of 15 December, 2003, but that Figures 1 and 2 described in the specification appeared to have been omitted.

In response, on 18 August, 2004, the present petition and a copy of two (2) sheets of drawings containing Figures 1 and 2 described in the specification, was filed. Petitioners argue that the sheets of drawings containing Figures 1 and 2 were filed with the other application papers on 15 December, 2003, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt

shows an Office date stamp of 12/15/03, the above-identified application number, and identifies the application by the first named inventor's last name; invention title and attorney docket number, and acknowledges receipt of, *inter alia*, 11 drawing sheets. Petitioners request that the application, including two (2) sheets of drawings containing Figures 1 and 2 described in the specification, be accorded a filing date of 15 December, 2003.

A review of the record reveals that nine (9) sheets of drawings are located in the official file. No sheet of drawings containing Figures 1 and 2 described in the specification has been located among the application papers received on 15 December, 2003. However, the evidence is convincing that the application papers deposited on 15 December, 2003, included 11 sheets of drawings, two (2) sheets of which included Figures 1 and 2 described in the specification, respectively, which were subsequently misplaced in the Office. Therefore, the application, including two (2) sheets drawings containing Figures 1 and 2 described in the specification, is entitled to a filing date of 15 December, 2003.

The "Notice" mailed on 21 June, 2004, is vacated.

In view of the above, the petition is granted. The petition fee of \$130.00 is unnecessary and will be refunded to counsel's deposit account, No. 20-0095.

There is no indication that petition herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed.

The address listed on the petition is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application will be processed with the copy of two (2) sheets of drawings containing Figures 1 & 2 supplied on 18 August, 2004, as a part of the original disclosure.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 15 December, 2003, using the application papers filed on that date,

and the sheet of drawings containing Figures 1 and 2 supplied with the present petition.

Telephone inquiries should be directed to the undersigned at 571-272-3231.



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